

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GREGORY WEST,

*

Plaintiff,

*

v.

*

Civ. No. JKB-23-01661

ALEJANDRO N. MAYORKAS,

*

Defendant.

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* * * * *

MEMORANDUM AND ORDER

The Court has reviewed Plaintiff's Motion for Leave to Amend Complaint, which seeks permission to file the proposed Second Amended Complaint. (ECF No. 39.) The motion is unopposed, and the deadline for Defendant to respond has passed. *See* Local Rule 104.2(a) (D. Md. 2023).

When, as here, a plaintiff moves to amend the complaint before the entry of a scheduling order, the Court "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Under this standard, leave to amend should be denied only when (1) the opposing party would be prejudiced; (2) the amendment is sought in bad faith; or (3) the proposed amendment would be futile. *G. W. Aru v. W. R. Grace & Co.-Conn.*, 344 F.R.D. 446, 449 (D. Md. 2023).

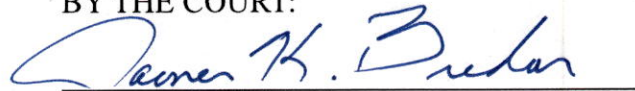
The Court finds no indicia of prejudice or bad faith. As to futility, the proposed Second Amended Complaint is not "clearly insufficient or frivolous on its face," *In re Triangle Cap. Corp. Sec. Litig.*, 988 F.3d 743, 750 (4th Cir. 2021) (quoting *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 510 (4th Cir. 1986)), and the Court declines to conduct a searching Rule 12(b)(6) inquiry *sua sponte*, without the benefit of adversarial briefing.

For these reasons, it is ORDERED that:

1. Plaintiff's Motion for Leave to Amend Complaint (ECF No. 39) is GRANTED; and
2. Defendant SHALL FILE AND SERVE an appropriate responsive pleading or motion within 30 days of this Memorandum and Order.

DATED this 6 day of November, 2024.

BY THE COURT:

A handwritten signature in blue ink, reading "James K. Bredar", is written over a horizontal line.

James K. Bredar
United States District Judge